# TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Margaret Wu, Economic Development Manager

PREPARED BY: Margaret Wu

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** Townwide

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN TO EXECUTE A MAINTENANCE AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR A PORTION OF STATE ROAD 84 (MARINA MILE) WITHIN THE TOWN OF DAVIE LIMITS

**REPORT IN BRIEF:** The purpose of Maintenance Agreement Exhibit A is to allow the Marina Mile 84 Beautification project between the State of Florida Department of Transportation, Town of Davie, City of Dania, City of Ft. Lauderdale and Broward County to move forward. Two (2) buoys, one within the Town of Davie boundary limits, and landscape will be placed in the median of State Road 84 along the Marina Mile corridor. All landscape pertaining to the beautification project will be funded through Broward County. In addition, the cost of the buoys will be paid by the Marina Mile 84 Association. The first year maintenance of the landscape will be provided by the vendor who is awarded the bid.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** None

**FISCAL IMPACT:** Does not require a budget

**RECOMMENDATION(S):** Motion to Approve

ATTACHMENT(S): Resolution, Maintenance Agreement Exhibit "A" and Plans Exhibit "B"

	RESOLUTION NO	
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A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORZING THE TOWN TO EXECUTE A MAINTENANCE AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION FOR A PORTION OF STATE ROAD 84 (MARINA MILE) WITHIN THE TOWN OF DAVIE LIMITS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS the State of Florida Department of Transportation has jurisdiction over State Road 84 as part of the State Highway System; and

WHEREAS, the Town of Davie seeks to install and maintain for one year following installation, certain landscape improvements within the right-of-way of State Road 84; and

WHEREAS, the Town of Davie seeks to install and maintain for its expected lifetime following installation certain hardscape improvements within the right-of-way of State Road 84; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the State of Florida Department of Transportation, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain a SIX (6) lane highway facility as described in Exhibit A attached hereto and incorporated by reference herein, within the corporate limits of the Town of Davie, and

WHEREAS, the Town of Davie is of the opinion that said highway facilities that contains landscape medians within the right of way line, shall be maintained by periodic trimming, cutting, fertilizing, litter pick-up, necessary replanting, and repairs as needed; and

WHEREAS, the Town of Davie desires to enter into this Agreement and authorizes its officers to do so.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

proposed Agreement between the Tov	wn of Davie and the State of Florida Department of
Transportation, a copy of which is attack	hed hereto as Exhibit "A", on behalf of the Town.
SECTION 2. This Resolution	shall take effect immediately upon its passage and
adoption.	
PASSED AND ADOPTED THIS	_ DAY OF, 2005
ATTEST:	MAYOR/COUNCILMEMBER
TOWN CLERK	
APPROVED THIS DAY OF	2005

SECTION 1. The appropriate Town officials are hereby authorized to execute the

# DISTRICT FOUR (4) MAINTENANCE MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this day of 2005, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, a component agency of the State of Florida, hereinafter called the DEPARTMENT and the Town of Davie, a political subdivision of the State of Florida, existing under the Laws of Florida, hereinafter called the AGENCY.					
WITNESSETH:					
WHEREAS, the DEPARTMENT has jurisdiction over State Road 84 as part of the State Highway System; and					
WHEREAS, the AGENCY seeks to install and maintain for one year following installation certain landscape improvements within the right-of-way of State Road 84; and					
WHEREAS, the AGENCY seeks to install and maintain for its expected lifetime following installation certain hardscape improvements within the right-of-way of State Road 84; and					
WHEREAS, as part of the continual updating of the State of Florida Highway System, the <b>DEPARTMENT</b> , for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain a SIX (6) lane highway facility as described in Exhibit A attached hereto and incorporated by reference herein, within the corporate limits of the <b>AGENCY</b> ; and					
WHEREAS, the AGENCY is of the opinion that said highway facilities that contains landscape medians within the right of way line, shall be maintained by periodic trimming, cutting, fertilizing, litter pick-up, necessary replanting, and repairs as needed; and					
WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and					
WHEREAS, the AGENCY by Resolution No dated, 200_, attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;					
<b>NOW THEREFORE</b> , for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:					
SAMaintsLandscapelMOA FoldersMOAsiSR 84_Draft_Davie.doc 1					

- 1. The AGENCY hereby agrees to install or cause to be installed landscape and hardscape (decorative structure/sign "Town of Davie/City of Dania Beach") on the highway facilities as specified in plans and specifications incorporated herein as Exhibit B, with if any, the following exceptions and conditions:
  - (a) The current Florida Department of Transportation Design Standard Index 546 must be adhered to for motorist clear sight,
  - (b) Clear zone/horizontal clearance as specified in the Plans Preparation Manual English Volume 1, Chapter 2 and Florida Department of Transportation Design Standard Index 700 must be adhered to,
  - (c) Landscape and decorative structure/sign shall not obstruct roadside signs or permitted outdoor advertising signs,
  - (d) If irrigation is to be installed, the **DEPARTMENT** shall be provided accurate as built plans of the system so if in the future there is a need for the **DEPARTMENT** to perform work in the area, the system can be accommodated as much as possible,
  - (e) If it becomes necessary to provide utilities to the median or side areas (water/electricity) it shall be the AGENCY'S responsibility to bear all associated costs including impact fees, cost of water and to obtain a permit for such work through the local maintenance office,
  - (f) During the installation of the project and future maintenance operations, maintenance of traffic shall be in accordance with the current edition of the Manual of Uniform Traffic Control Devices (MUTCD) and the current Department Design Standards (series 600),
  - (g) The **AGENCY** shall provide the local maintenance office located at 5548 NW 9<sup>th</sup> Avenue, Ft. Lauderdale, Fl., a twenty-four (24) hour telephone number and the name of a responsible person that the **DEPARTMENT** may contact,
  - (h) If there is a need to restrict the normal flow of traffic it shall be done on off-peak hours (9 AM to 3 PM), and the party performing such work shall give notice to the local law enforcement agency within whose jurisdiction such road is located prior to commencing work on the project. The **DEPARTMENT**'s Public Information Office shall also be notified at 954-777-4092,
  - (i) The **AGENCY** shall be responsible to clear all utilities within the project limits and bear all costs for damages resulting from Agency operations,

- (j) The AGENCY shall notify the local maintenance office forty-eight (48) hours prior to the start of the project at 954-776-4300.
- 2. The AGENCY agrees to maintain the landscape and hardscape(s) within the median area(s) shown on Exhibit B outside the travel way by periodic trimming, cutting, mowing, plant bed edging, fertilizing, litter pickup, necessary replanting and any structure/sign repairs as needed following the DEPARTMENT's landscape safety and plant care guidelines. Hardscape(s) shall mean any non-standard roadway, structure/sign, sidewalk or median surface such as interlocking pavers, stamped asphalt and stamped concrete.

The AGENCY'S responsibility for maintenance shall include all landscape, turfed, mulched, or hardscape areas, and structure/sign within the median right of way shown to be constructed in Exhibit B, and provide repairs or replacements as needed. Such maintenance to be provided by the AGENCY is specifically set out as follows:

To maintain, which means the proper watering and fertilization of all plants and keeping them as free as practicable from disease and harmful insects; to properly mulch the plant beds; to keep the premises free of weeds; to mow and/or cut the grass to a proper length; to properly prune all plants which includes (1) removing dead or diseased parts of plants, or (2) pruning such parts thereof which present a visual safety hazard for those using the roadway. To maintain also means removing or replacing dead or diseased plants in their entirety, or removing or replacing those that fall below original project standards. All plants removed for whatever reason shall be replaced by plants of the same size and grade as specified in the original plans and specifications. To maintain also means to keep the hardscape areas free from weeds and replacement of any areas becoming in disrepair so as to cause a safety hazard. To maintain also means to keep the structure/sign or any other hardscapes such as brick pavers in optimum condition. Plants shall be those items, which would be scientifically classified as plants and include but are not limited to trees, grass, or shrubs.

The above named functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT, at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding, repayment, reworking or agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the DEPARTMENT.

The **DEPARTMENT** shall have no maintenance responsibility to the Agency either before or after the first year. Nor shall the **DEPARTMENT** ever be responsible for replacement of any vegetation.

- 3. If at any time after the AGENCY has undertaken the landscape installation and/or maintenance responsibility above-mentioned, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits or a part thereof is not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his option issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, to place said AGENCY on notice thereof. Thereafter the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may at its option, proceed as follows:
  - (a) Maintain the landscape or a part thereof, with **DEPARTMENT** or contractor's personnel and invoice the **AGENCY** for expenses incurred, or
  - (b) Terminate the Agreement in accordance with Paragraph 6 of this Agreement and remove, by **DEPARTMENT** or contractor's personnel, all of the landscape/irrigation/hardscape installed under this Agreement or any preceding agreements except as to trees and palms and charge the **AGENCY** the reasonable cost of such removal.
- 4. It is understood between the parties hereto that the landscape/hardscape covered by this Agreement may be removed, relocated or adjusted at any time in the future as determined to be necessary by the Department in order that the adjacent state road be widened, altered or otherwise changed to meet with future criteria or planning of the Department. The AGENCY shall be given sixty (60) calendar days notice to remove said landscape/hardscape after which time the Department may remove same.
- 5. The **AGENCY** agrees to perform the final inspection and provide written certification that all safety requirements have been met and for acceptance of the Project.
- 6. This Agreement may be terminated under any one (1) of the following conditions:
  - (a) By the **DEPARTMENT**, if the **AGENCY** fails to perform its duties under Paragraph 3, following ten (10) days written notice.
  - (b) By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this Agreement.

- (c) By the MAINTAINING AGENCY for convenience, by providing 30 days written notice to FDOT, subject to AGENCY reimbursing FDOT for the cost of removal of same.
- 7. The term of this Agreement commences upon execution.
- 8. To the extent permitted by law, the AGENCY shall indemnify and hold harmless the DEPARTMENT, its officers and employees from all suits, actions, claims and liability arising out of the AGENCY'S negligent performance of the work under this agreement, or due to the failure of the AGENCY to maintain the Project in conformance with the standards described in Sections 1 and 2 of this Agreement.
- 9. This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
- 10. The **DEPARTMENT**, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.
- 11. The **DEPARTMENT**'s District Secretary shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.
- 12. This Agreement may not be assigned or transferred by the **AGENCY** in whole or part without the consent of the **DEPARTMENT**.
- 13. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail.

Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses:

If to the Department:If to the Agency:State of Florida Department of TransportationTown of DaviePlanning & Environmental Management4700 Davie Road3400 West Commercial Blvd.Davie Florida, 33314Ft. Lauderdale, FL 33309-3421Attention: Elisabeth A. Hassett, R.L.A.Attention: Elisabeth A. Hassett, R.L.A.Attention: Margaret WuFDOT District IV Landscape ArchitectDirector of Economic Dev.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective the day and year first above written.

AGENCY		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
By: Chairperson/Mayor		By: District Secretary		
Attest:Clerk	_(SEAL)	Attest: Executive Secret	(SEAL)	
Approval as to Form	Date	Approval as to Form	Date	
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SECTION NO.: COUNTY:

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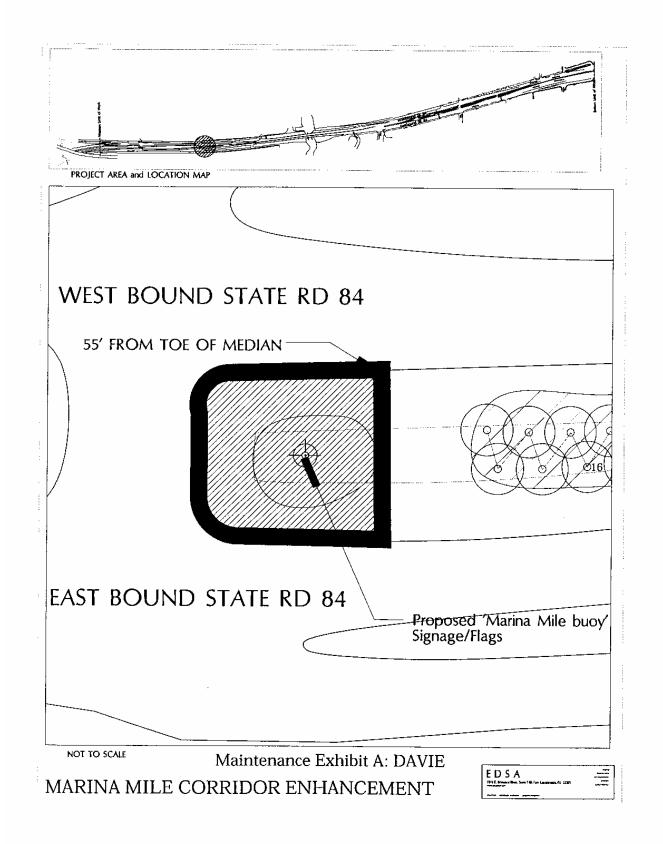
S.R. NO.:

Broward 84

#### **EXHIBIT A**

#### PROJECT LOCATION:

State Road 84 median at approximate M.P. 16.339.



SECTION NO.: COUNTY:

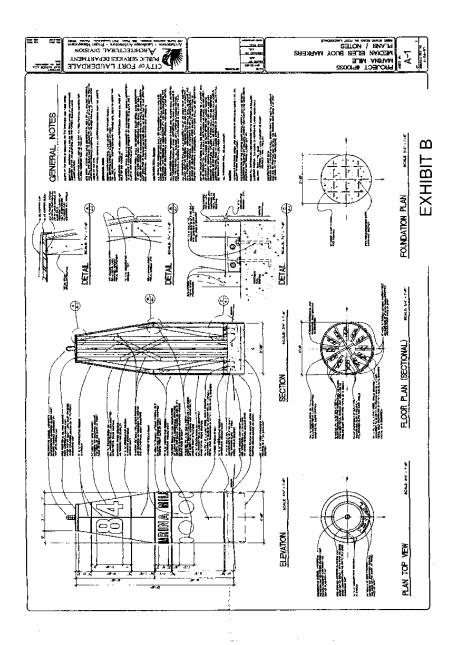
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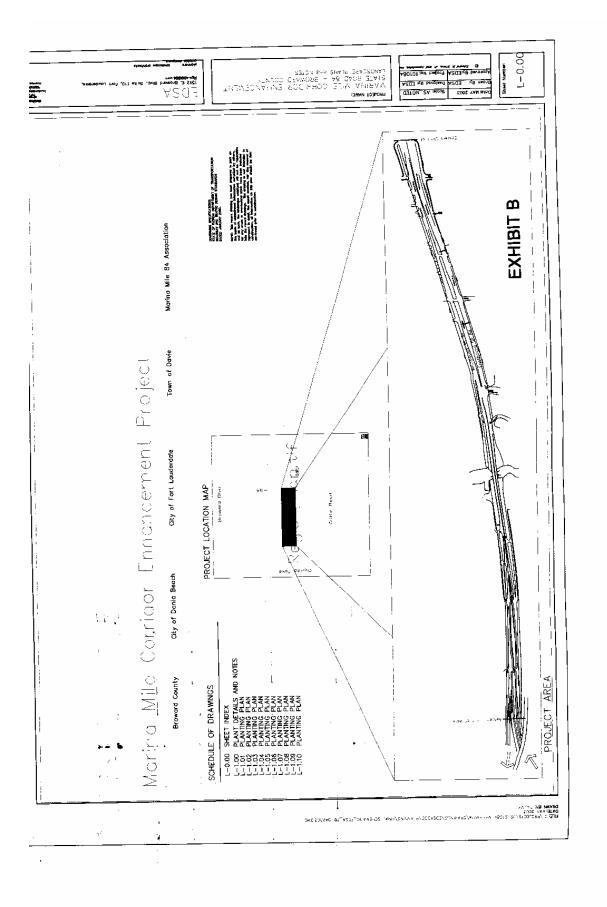
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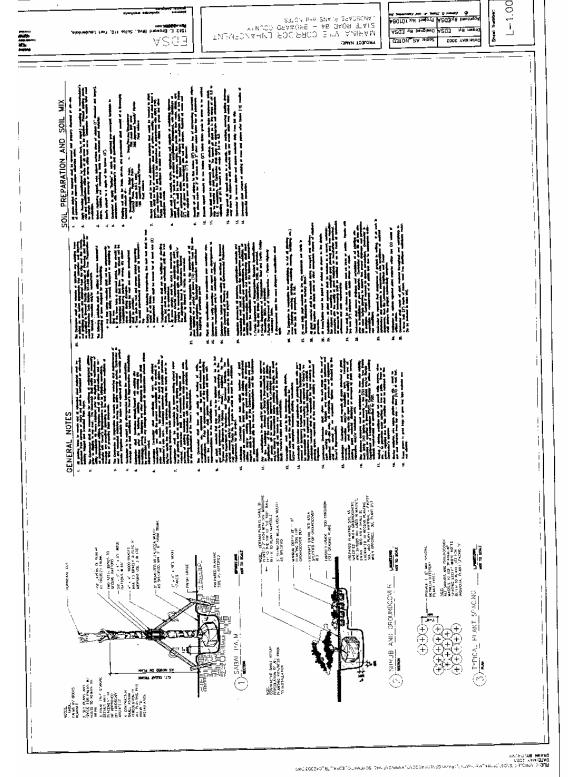
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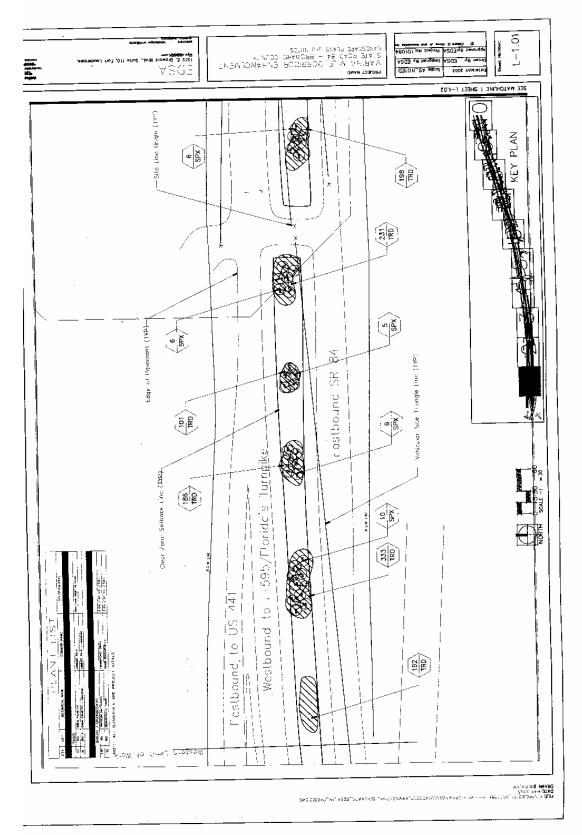
#### **EXHIBIT B**

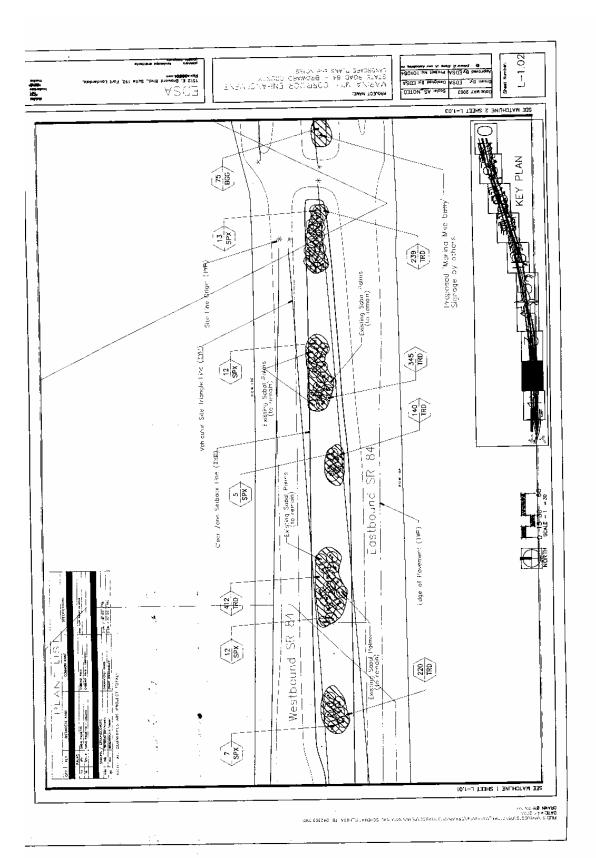
See attached plans prepared by The City of Ft. Lauderdale Public Services Department Architectural Division dated 04-23-03 for structure/sign, and plans prepared by EDSA dated May 2003 for landscapes.

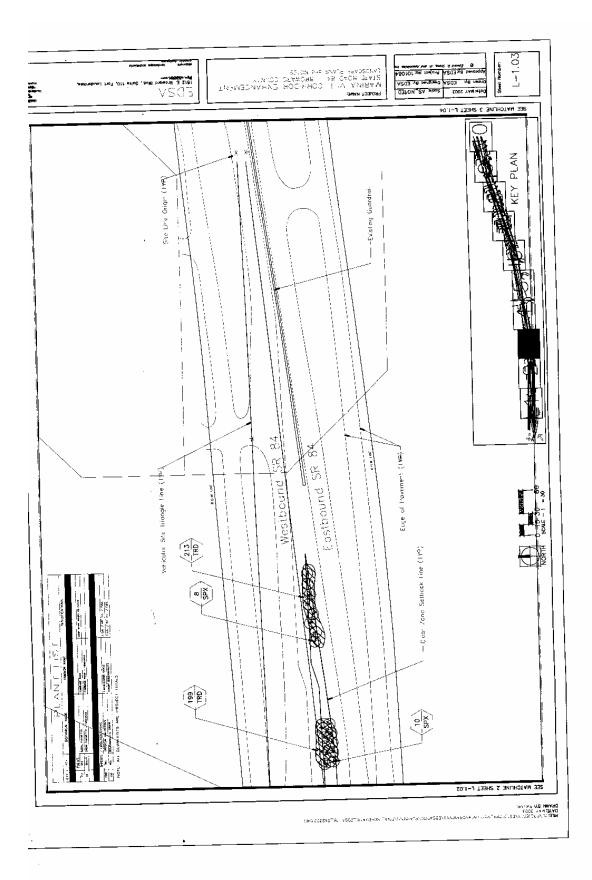


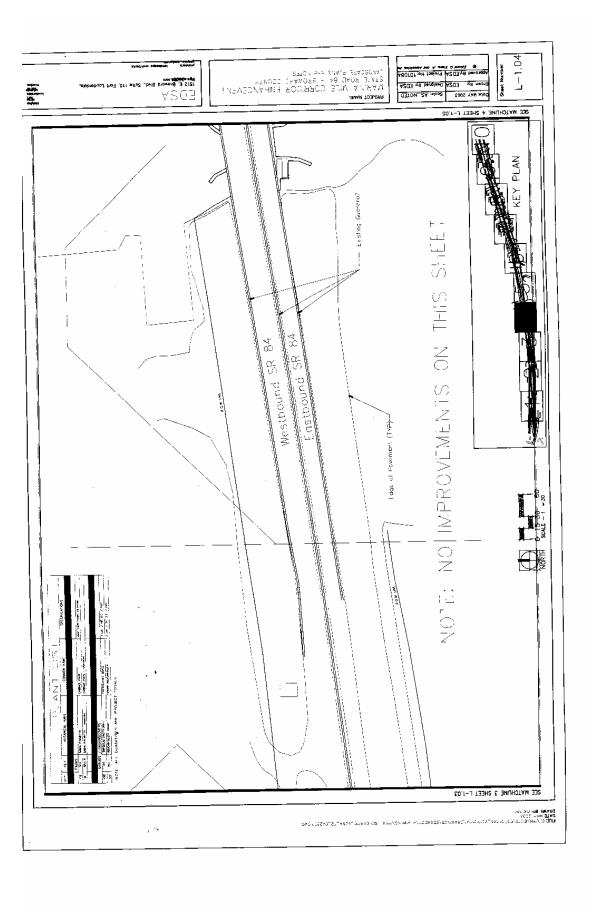








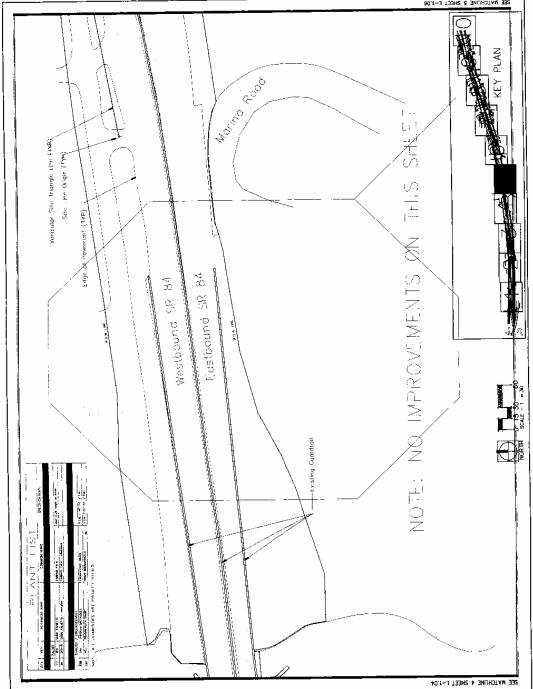




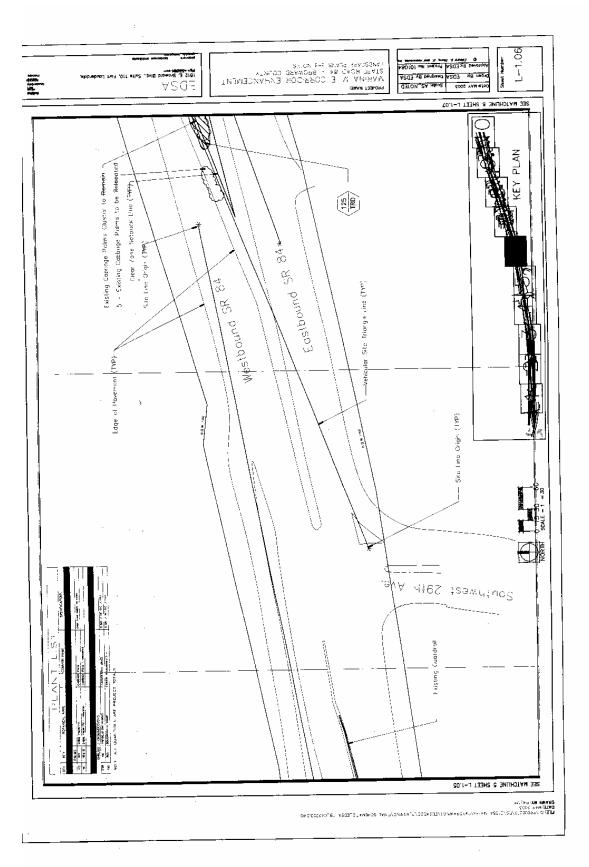
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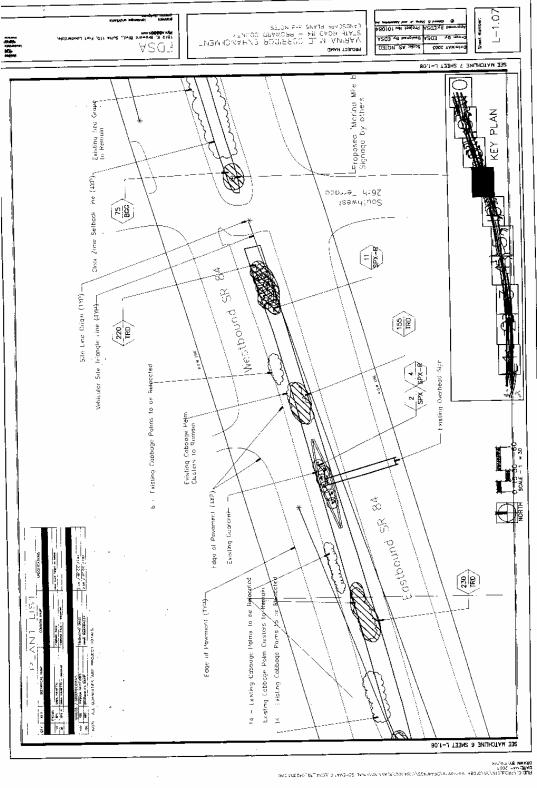
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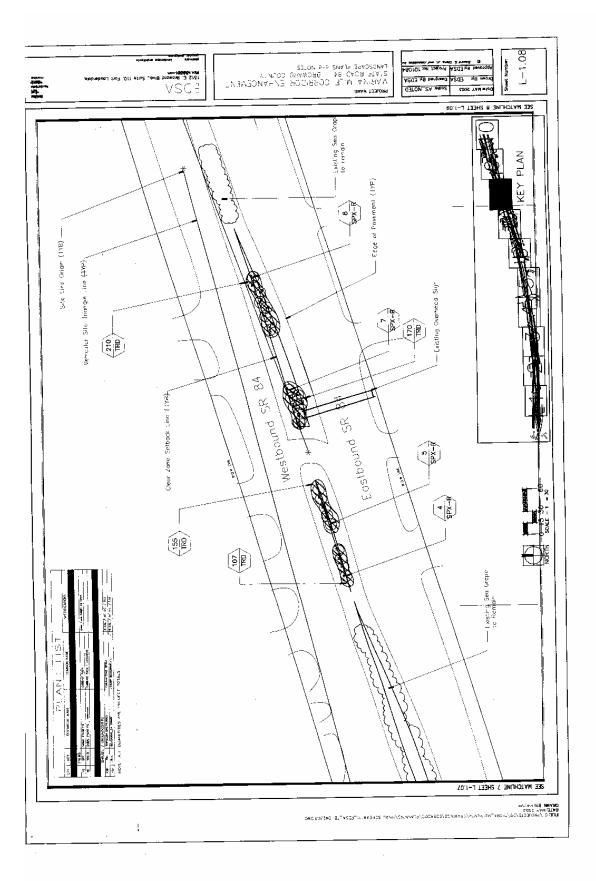
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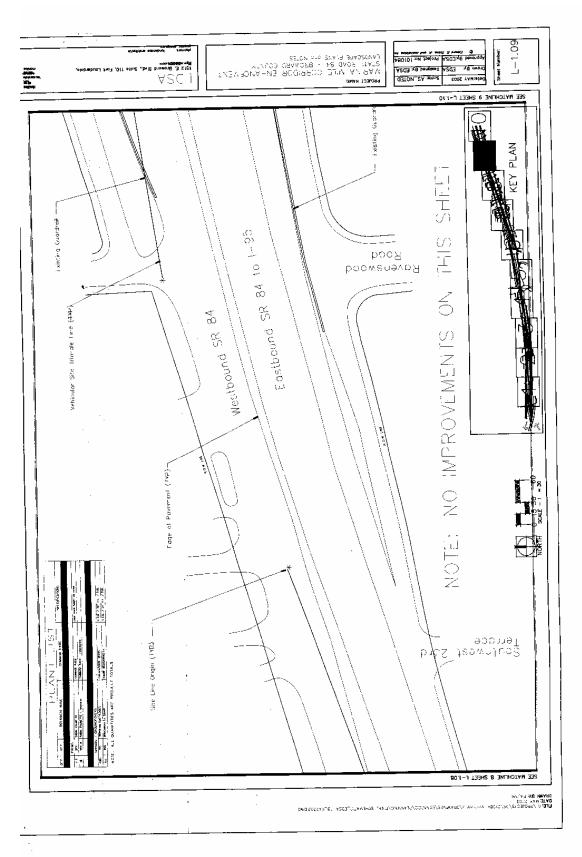


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